

REMARKS / DISCUSSION OF ISSUES

Claims 1-15 are pending in the application.

The applicants thank the Examiner for acknowledging the claim for priority and receipt of certified copies of all the priority document(s).

The Office action rejects claims 1-3 and 7-15 under 35 U.S.C. 103(a) over Vossler (USP 7,206,429) and Rast (USPA 2001/0046304). The applicants respectfully traverse this rejection.

The combination of Vossler and Rast fails to teach or suggest a controller that is worn in or by a human ear that includes an outer surface with a touch-sensitive area for controlling a remote device, as specifically claimed in each of the applicants' independent claims.

The Office action acknowledges that Vossler fails to teach a touch-sensitive area, and asserts that Rast teaches a touch-sensitive area at paragraph [0055]. The applicants respectfully disagree with this assertion.

Rast does not teach or suggest the use of a touch-sensitive area for controlling a remote device. Both Vossler and Rast teach the conventional use of buttons to control functions of a device. At paragraph [0055], Rast specifically teaches the use of a variety of buttons 20a, 20b, 20c, and 20d in FIG. 1 to control the function of a headset controller; Rast's FIG. 3 clearly illustrates that each of these buttons provides a different input to the headset controller 62. The applicants note that Rast's buttons 20a-20d are not a touch-sensitive area, as asserted in the Office action.

Because the Office action fails to identify where the combination of Vossler and Rast teaches a touch sensitive area for controlling a remote device, as specifically claimed in each of the applicants' independent claims, the applicants respectfully maintain that the rejection of claims 1-3 and 7-13 under 35 U.S.C. 103(a) over Vossler and Rast is unfounded, and should be withdrawn.

Further, the combination of Vossler and Rast fails to teach or suggest measuring an internal resistance of a part of the human body, as claimed in claim 10, fails to teach or suggest converting an output signal of the touch-detecting means into a digital representation of the output signal, as claimed in claim 11, and fails to teach or suggest detecting a pressure with which the touch-sensitive area is touched, as claimed in claim 13.

The Office action asserts that Rast provides the teachings of the features of claims 10, 11, and 13 at paragraph [0055]. The applicants respectfully disagree with this assertion. At the cited paragraph, Rast teaches the use of a plurality of buttons, but does not address measuring the internal resistance of a part of a human body, does not address creating a digital representation of the output signal, and does not address detecting a pressure with which the touch-sensitive area is touched. Accordingly, the applicants respectfully maintain that the rejection of claims 10, 11, and 13 under 35 U.S.C. 103(a) is unfounded, and should be withdrawn.

The Office action rejects claims 4-5 under 35 U.S.C. 103(a) over Vossler, Rast, and Boesen (USP 6,560,468). The applicants respectfully traverse this rejection.

At page 3, lines 16-17, the Office action notes that Vossler "fails to disclose the controller (120) having an outer surface (121) with a touch-sensitive area". Yet, at page 6, lines 10-11, the Office action asserts that Vossler teaches "that the outer surface (121) has a further touch-sensitive area". Consistent with the Office action's first statement, the applicants respectfully disagree with the Office action's second statement.

The Office action further asserts that Boesen teaches a touch-sensitive area. The applicants respectfully disagree with this assertion.

Boesen teaches a contact microphone; Boesen does not teach a touch-sensitive area. As a contact microphone, Boesen's device is sensitive to vibrations. Although a touch will induce a vibration, to operate properly, Boesen's device cannot be sensitive to touch, per se. That is, during the continuous touching of Boesen's device to the wall of the ear canal, no output should be produced. When Boesen's device is first inserted into the ear, an output will be produced due to the vibration caused by the insertion; thereafter, no output should be produced due to the touching of the device to the wall of the ear canal. As such, Boesen's device cannot reasonably be said to be a touch-sensitive area on the surface of a controller.

Because the combination of Vossler, Rast, and Boesen fails to teach or suggest a touch-sensitive area and a further touch-sensitive area, as specifically claimed in claim 4, the applicants respectfully maintain that the rejection of claims 4-5 under 35 U.S.C. 103(a) over Vossler, Rast, and Boesen is unfounded, and should be withdrawn.

In view of the foregoing, the applicants respectfully request that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

/Robert M. McDermott/
Robert M. McDermott, Esq.
Reg. 41,508
804-493-0707

Please direct all correspondence to:
Corporate Counsel
U.S. PHILIPS CORPORATION
P.O. Box 3001
Briarcliff Manor, NY 10510-8001